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SECURITY COUNCIL
Fifty-first year

Letter dated 29 February 1996 from the Permanent Representatives of Bosnia and Herzegovina, Croatia, Slovenia and the former Yugoslav Republic of Macedonia to the United Nations addressed to the Secretary-General

Upon instructions from our respective Governments, we have the honour to submit to you the text of a joint statement by our Foreign Ministers with regard to Security Council resolution 1022 (1995) (see annex).

We would kindly request your assistance in distributing the present letter and its annex as a document of the General Assembly, under item 20 of the preliminary list, and of the Security Council.

(Signed) Ambassador Muhamed SACIRBEY
Permanent Representative of Bosnia and Herzegovina

(Signed) Ambassador Mario NOBILO
Permanent Representative of Croatia

(Signed) Ambassador Denko MALESKI
Permanent Representative of Macedonia

(Signed) Ambassador Danilo TÜRK
Permanent Representative of Slovenia

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ANNEX

Joint statement issued on 29 February 1996 by the Foreign Ministers of Bosnia and Herzegovina, Croatia, Slovenia and the former Yugoslav Republic of Macedonia

The Republic of Bosnia and Herzegovina, the Republic of Croatia, the Republic of Macedonia and the Republic of Slovenia, being the successor States to the former Socialist Federal Republic of Yugoslavia (hereinafter the "SFRY"), have agreed to state their common position in respect of the implementation of resolution 1022 (1995) adopted by the United Nations Security Council on 22 November 1995.

1. In its paragraph 5, resolution 1022 (1995) provides for the release of some funds and assets previously frozen or impounded pursuant to Security Council resolutions 757 (1993) and 820 (1993). However, paragraph 6 of resolution 1022 (1995) contains safeguards for the protection of the rights and interests of the successor States to the former SFRY, other than the Federal Republic of Yugoslavia (Serbia and Montenegro) (hereinafter the "FRY"). Namely, it emphasizes that the suspension of termination of obligations pursuant to the resolution is without prejudice to the claims of successor States to the former SFRY with respect to funds and assets. Furthermore, it encourages all States to make provision under their national law for addressing competing claims of States and to take appropriate measures to facilitate the expeditious collection of any funds and assets by the appropriate parties and the resolution of claims related thereto.

In our view this position means that any release of previously frozen or impounded funds and assets by respective States which is contrary to legal interests and claims of the successor States to the former SFRY and is not based on applicable law, including respective general principles of law, imposes the legal obligation of these States to repair any damage to other four successor States inflicted by such a decision. Our Governments reserve the right to obtain the return of their respective portions of the assets and funds and/or indemnity in judicial procedures before municipal and international agencies from the entities whose actions have caused such damage.

2. We would like to stress that our Governments have always supported the need for the successor States to reach an agreement on the distribution of funds and assets and the allocation of liabilities of the former Yugoslavia, as stated in resolution 1022 (1995).

From the outset of the negotiation on succession within the International Conference on the Former Yugoslavia, the delegation of the FRY has been impeding efforts to reach such an agreement. As a consequence thereof, the Arbitration Commission of that Conference has issued 15 Opinions on various legal aspects of the succession of States. However, the impasse in negotiations on succession of States was not overcome by the time the Conference structure was terminated on 31 January 1996. It follows from the Conclusions of the Peace Implementation Conference, held in London on 8 and 9 December 1995, that these negotiations are

to be resumed under the auspices of the Peace Implementation Council. They should result in an agreement on the basis of international law on state succession according to which the assets and liabilities of the former SFRY that ceased to exist should be equitably distributed among all States concerned, as equal successor States.

3. Our Governments would like to point out the fact that as a consequence of the dissolution of the SFRY, the National Bank of Yugoslavia, as the central bank of the former SFRY, has ceased to exist. The institution now named the "National Bank of Yugoslavia" (hereinafter the "NBY"), as a central bank of the new State, the FRY, is not the same legal person as the National Bank of the former SFRY.

In the same sense, the above-mentioned Arbitration Commission expressly stated that the NBY is not entitled to take decisions affecting the property, rights and interests to be divided among the successor States in accordance with the principles of state succession (Opinion No. 15 of 13 August 1993).

Consequently, our Governments do not recognize any mandates from the former National Bank of Yugoslavia and the new institution that bears the same name.

Should the central banks or other institutions of States fail to respect this legal situation, our Governments reserve, as already stated, their right to claim compensation for any damages they may sustain.

The Republic of Bosnia and Herzegovina, the Republic of Croatia, the Republic of Macedonia and the Republic of Slovenia would highly appreciate the kind assistance of Governments in the implementation of Security Council resolution 1022 (1995) in accordance with the positions expressed in the present statement.